

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. APPLN. NO 10/009,573

REMARKS

Claims 7, 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Baum (WO '992) in view of Cesaro '358 (**newly cited**).

Claims 2, 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Baum and Cesaro '358 (**newly cited**) in view of Wong (WO '790).

N.B. Even though Cesaro '358 is cited in the text of the Office Action, it is not listed on the attached Form PTO-892. Listed on the Form PTO-892 is US - 3,742,538 -- Smith **which is not mentioned by the Examiner(?)**.

Applicant respectfully traverses these rejections, for the following reasons.

The Examiner admits that Baum "does not explicitly disclose that the radio relay on the ground is replaced by said aircraft".

However, as already explained on page 2 of Applicant's specification:

Nevertheless, in spite of that, the high altitude aircraft solutions that have been envisaged or proposed are unfeasible, both economically and even technically. In particular:

- because of their high weight, and thus significant weight/power ratio, the aircraft that have been proposed are generally too heavy to remain at high altitude on a permanent basis, in particular, the energy supplied by batteries and possibly by solar cells often remains inadequate;

- in addition, the energy storage capacities proposed are generally insufficient to provide power over night; and

- other energy sources, such as transmitting energy by microwaves from the ground, are too complex and expensive and they are also harmful for the environment.

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Applicant respectfully submits that the subject matter of independent parent claim 7 is quite different from the disclosure of Cesaro col. 1, lines 13-18 in combination with Baum. As a matter of fact, in Cesaro, the antenna systems are removed from the ground to cover "a relatively larger area".

In contrast, claim 7 is directed to "replacing a radio relay". As explained in Applicant's specification at page 5, lines 17-23:

The user then has no need to modify either the interface or even the pointing of the antenna. This makes it possible to replace radio relay networks based on the ground or in space easily, and in addition to do so without modifying the interfaces of user terminals, which is particularly advantageous particularly in terms of cost.

Further, another advantage is the possibility of ensuring service continuity when the telecommunication network suffers from disasters and a relay no longer works (following a natural disaster, a terrorist attack, etc.).

Thus, Applicant respectfully submits that the teachings of Baum and Cesaro would not have rendered obvious, to a person of ordinary skill in the relevant art, the subject matter of claim 7 and each of its dependent claims 5 and 6, as the problem solved by the subject matter of each of these claims is not recognized by these teachings.

Therefore, and notwithstanding the Examiner's assertion to the contrary, Applicant respectfully submits that it would **not** have been obvious to one of ordinary skill in the art, at the time the invention was made, to use airborne apparatus as taught by Cesaro in Baum's invention

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in order to replace the ground based radio relay system by the airborne apparatus thus reducing radiation from ground based towers or masts.

In the rejection of claims 2, 3 and 4, the Examiner cites Wong merely to show "a method of using a new propulsion system to overcome the inefficiencies of the conventional propellers. Further, Wong teaches a method where the engine includes an electrode and the emitted electrons are accelerated by the surrounding electric field forming plasma of electrons, which is then used to propel the aircraft".

Even assuming, *arguendo*, that the Examiner's characterization of Wong's disclosure is accurate, in view of the above-noted deficiency in the basic Baum/Cesaro combination, Applicant respectfully submits that the subject matter of claim 2 would not have been obvious from Wong's teaching when combined with the teachings of Baum and Cesaro.

The same is true for claim 3 relative to Wong's presumed teaching of "the use of solar generator in the aircraft which is cooled by convection", and also for claim 4 relative to Wong's presumed teaching of "the use of at least one storage battery in the aircraft".

In summary, then, Applicant respectfully submits that the subject matter, taken as a whole, of each of claims 2-7 would not have been obvious from the combined **teachings** of Baum, Cesaro (newly cited) and Wong, and respectfully requests the Examiner to reconsider and withdraw the above rejections, and to find the application to be in condition for allowance with all of claims 2-7; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

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REQUEST FOR WITHDRAWAL OF FINALITY OF ACTION

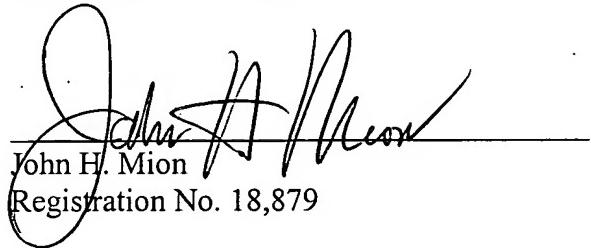
Notwithstanding the Examiner's assertion to the contrary, Applicant respectfully submits that Applicant's previous amendments did **not necessitate** the new ground of rejection relying on the newly cited Cesaro '358 reference. The Examiner relies on Cesaro (**newly cited**) only as allegedly showing "a ground based radio relay system can be **replaced** by means of airborne apparatus in order to reduce radiation from ground towers or masts". Claim 7 (7/1) was previously amended merely to rewrite it in independent form. The only claim amendment relating to the Examiner's reliance on Cesaro was changing the passive voice, "is replaced", to the active voice, "replacing". Therefore, Applicant respectfully submits that the rewritten claim 7 (7/1) and the amendments thereto **clearly did not necessitate the citation of the new reference**, Cesaro. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the finality of the Action (or else to point out with **particularity** the amendment to the rewritten claim 7 (7/1) which allegedly "necessitated" the new ground of rejection including the **newly cited** Cesaro).

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of One Month. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any

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additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



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